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14 AMERICA, INC. and SAMSUNG
TELECOMMUNICATIONS AMERICA, LLC
15

16 UNITED STATES DISTRICT COURT

17 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

18 APPLE INC., a California corporation,

19 Plaintiff,

20 vs.

21 SAMSUNG ELECTRONICS CO., LTD., a
Korean business entity; SAMSUNG
22 ELECTRONICS AMERICA, INC., a New
York corporation; SAMSUNG
23 TELECOMMUNICATIONS AMERICA,
LLC, a Delaware limited liability company,

24 Defendants.
25

CASE NO. 11-cv-01846-LHK

**SAMSUNG’S REQUEST FOR THIRTY
MINUTES TO REVIEW THE JURY
VERDICT FORM BEFORE THE JURY IS
DISMISSED FOR THE PURPOSE OF
SEEKING CLARIFICATION OF
POTENTIAL INCONSISTENT VERDICT
IF NECESSARY**

1 **Introduction**

2 The verdict form in this complex case necessarily spans 20 pages and requires unanimous
3 answers to more than 500 discrete questions across 5 different legal disciplines. (Dtk. No. 1890.)
4 The likelihood of an inconsistent verdict is a possibility despite the jury's best efforts. Samsung
5 respectfully requests thirty minutes to review the verdict form before the jurors are dismissed and
6 the opportunity to determine whether it would be appropriate to seek clarification if an
7 inconsistent verdict is reached. This will allow the parties and the Court to determine whether to
8 seek clarification of any potential inconsistent verdict from the fact-finders themselves, avoid
9 waiver of potential of inconsistent verdict arguments, and conserve the resources of the Court and
10 the parties.

11 Samsung requested that Apple join in this motion. Apple declined.

12 **Argument**

13 The parties risk the possibility that any inconsistent verdict arguments may be deemed
14 waived on appeal if not given sufficient time to review the verdict form for inconsistencies before
15 the jury is discharged. *See Home Indemnity Co. v. Lane Powell Moss & Miller*, 43 F.3d 1322 (9th
16 Cir. 1995) (holding that the district court "properly refused to amend the judgment because [the
17 plaintiff] waived its objection to the jury's verdict on its contribution claim by not objecting to the
18 alleged inconsistency prior to the dismissal of the jury").

19 The parties and the Court here have expended substantial time, money, and resources to
20 bring this case to verdict. Allowing the parties thirty minutes to identify any inconsistencies in
21 the jury's verdict and the opportunity to seek clarification from the original fact-finders will (1)
22 give clarity to the verdict and may avoid potential post-trial briefing on topics the jury could have
23 easily remedied if given the opportunity, and (2) allow the parties the time necessary to object to
24 the verdict in order to preserve those objections for any appeal. *See, e.g., Duk v. MGM Grand*
25 *Hotel, Inc.*, 320 F.3d 1052, 1057 (9th Cir. 2003) ("We now hold that where the jury is still
26 available, a district court's decision to resubmit an inconsistent [special] verdict for clarification is
27 within its discretion.")

1 Thus, for all the reasons stated above, Samsung respectfully requests thirty minutes to
2 review the verdict form before the jurors are dismissed and the opportunity to determine whether
3 to seek clarification if an inconsistent verdict is reached.

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DATED: August 24, 2012

QUINN EMANUEL URQUHART &
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